Attorney Docket No. B-4342 619176-0 *PATENT*

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant: Sebastien Bouat	) On Appeal to the) Board of Appeals
Patent Application No.: 10/032,882	)
Filed: 10/29/2001	) Group Art Unit: 2144)
For: "Processing Messages in a Gatekeeper ..."	) Examiner: Gerezgiher, Yemane M)) Date: September 8, 2006)

BRIEF ON APPEAL

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an appeal from the Final rejection, dated May 12, 2006, for the above identified patent application. Appellant submits that this Appeal Brief is being timely filed, since the notice of Appeal was filed on July 12, 2006. Please charge the Appeal Brief fee of $500.00 to deposit account no. 08-2025.

REAL PARTY IN INTEREST

The real party in interest to the present application is Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249 Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC

RELATED APPEALS AND INTERFERENCES

Appellant submits that there are no other prior and pending appeals, interferences or judicial proceedings which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

STATUS OF CLAIMS

Claims 1-17 were presented in the present application. Claims 1-17 are the subject of this Appeal and are reproduced in the accompanying Claims appendix.

STATUS OF AMENDMENTS

No Amendment After Final Rejection has been entered.

SUMMARY OF CLAIMED SUBJECT MATTER

The invention described and claimed in the present application deals with Internet Protocoll networks and particularly with voice conferencing over such networks (p. 1, ll. 4-5).

Claim 1 is directed to a method for processing messages incoming on a gatekeeper system (300) of an Internet Protocol network, wherein the gatekeeper system includes a gatekeeper (320) and a plurality of sub-processes (310a-310m) each able to process a series of such messages, the method comprising: the gatekeeper (320) receiving incoming messages; and the gatekeeper dispatching received messages among the plurality of sub-processes (310a-310m), wherein the received messages that belong to the same call are dispatched to the same sub-process. (Figure 4, p. 4, l. 9 to p. 5, l. 21)

Claim 11 is directed to a gatekeeper system (300) of an Internet Protocol network, the gatekeeper system (300) comprising a gatekeeper (320) for receiving incoming messages and hosting a plurality of sub-processes (310a-310m) each able to process a series of messages, wherein the gatekeeper (320) is adapted to dispatch the received messages

onto those different sub-processes (310a-310m), and further wherein the gatekeeper has means for identifying whether a received message belongs to a same call as a previously received message, and, in that case, sending this received message to the sub-process that processed the previously received message. (Figure 4, p. 4, l. 9 to p. 5, l. 21)

Claim 13 is directed to a gatekeeper (320) in an Internet Protocol Network, the gatekeeper comprising means for dispatching incoming messages onto a plurality of sub-processes (310a-310m), the gatekeeper (320) being able to identify whether a received message belongs to a same call as a previously received message, and, in that case, being able to send this received message to the sub-process that processed said previously received message. (Figure 4, p. 4, l. 9 to p. 5, l. 21)

Claim 15 is directed to a method for processing messages incoming on a gatekeeper system (300) of an Internet Protocol network, wherein the gatekeeper system (300) comprises a gatekeeper (320) and a plurality of sub-processes (310a-310m) each able to process a series of such messages, and further wherein the messages enter the gatekeeper (320) in an encoded form and comprise a plurality of fields, at least one of which contains data for identifying a call, the method comprising: the gatekeeper (320) receiving incoming messages; the gatekeeper decoding received message only partially, the decoded part including said one or several fields which contain those data (p. 7, l. 14 to p. 11, l. 9); and the gatekeeper dispatching received messages among the plurality of sub-processes, wherein the received messages that belong to the same call are dispatched to the same sub-process. (Figure 4, p. 4, l. 9 to p. 5, l. 21)

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Issue 1: Whether Claims 1-17 are patentable under 35 U.S.C. 103(a) in view of Ma, U.S. Patent No. 6,795,867, (hereinafter "Ma") and further in view of Brendel, U.S. Patent No. 6,772,333, (hereinafter "Brendel")?

ARGUMENT

Issue 1: Whether Claims 1-17 are patentable under 35 U.S.C. 103(a) in view of Ma, U.S. Patent No. 6,795,867, (hereinafter "Ma") and further in view of Brendel, U.S. Patent No. 6,772,333, (hereinafter "Brendel")?

In the final Office Action of May 12, 2006, the Examiner rejects Claims 1-17 under 35 U.S.C. 103(a) as being obvious in view of Ma and Brendel. Appellant respectfully disagrees.

Appellant submits that the Examiner has **not** established a *prima facie* case of obviousness for the claims rejected under 35 U.S.C. §103(a). Appellant notes:

> "To establish a *prima facie* case of obviousness, three basic criteria must be met. **First, there must be some suggestion or motivation**, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, **to modify the reference or to combine reference teachings**. Second, there must be a reasonable expectation of success. **Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations**. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure" (emphases added) *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Appellant submits that the Examiner has failed to show that Ma and Brendel teach each and every element as claimed in the present application.

Claim 1

Appellant submits that Ma and Brendel do not disclose, suggest or teach, *inter alia*, at least the following features recited by Claim 1 of the present application:

> "the **gatekeeper receiving incoming messages**; and the **gatekeeper dispatching received messages among the plurality of sub-processes,** wherein the received messages that belong to the same call are dispatched to the same sub-process" (emphasis added)

The Examiner asserts that the "sub-processes" as recited in Claim 1 are disclosed by Ma's gatekeepers "302-306 and 352-356." See page 4, last paragraph of the final Official Action. The Examiner seems to further imply that the "gatekeeper" as recited in Claim 1 are disclosed by Ma's Load Management Unit (LMA). See page 4, last paragraph of the final Official Action. Appellant respectfully traverses the Examiner's assertion.

Although Ma teaches that LMUs can be either part of Ma's gatekeepers"302-306" as shown in Ma's Figure 3A reproduced below, or that an LMU can be a separate entity from Ma's gatekeepers "352-356" as shown in Ma's Figure 3B reproduced below, Appellant submits that in either embodiment Ma does not disclose "the gatekeeper receiving incoming messages; and the gatekeeper dispatching received messages among the plurality of sub-processes" as recited in Claim 1.

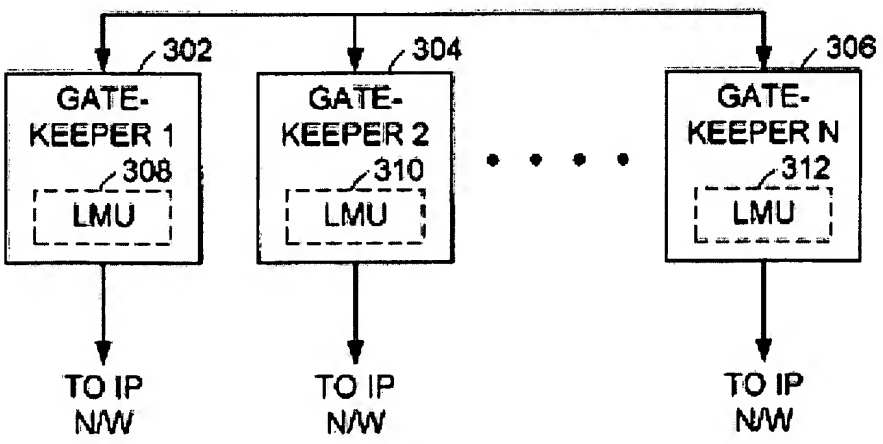


FIG. 3A

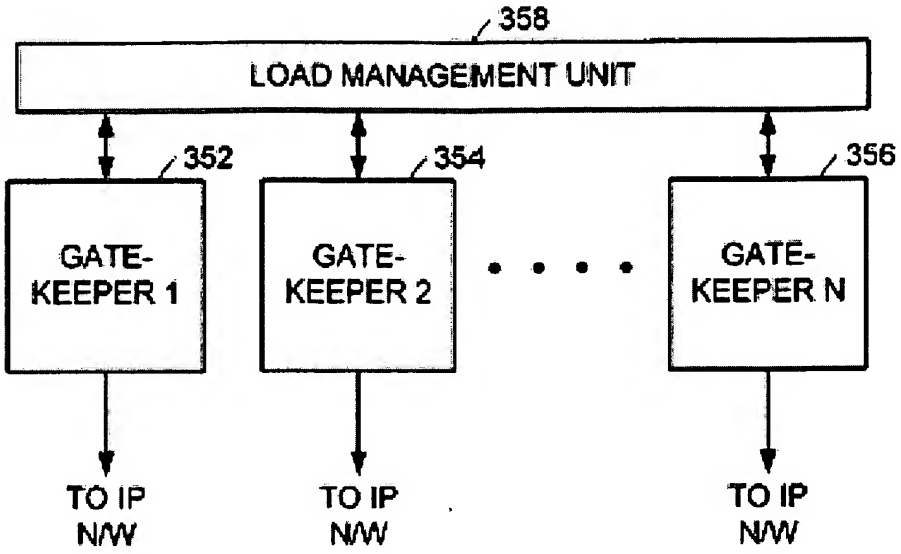


FIG. 3B

According to Ma's Figure 4 reproduced below, to setup an IP telephony call a gateway sends a setup message to an assigned gatekeeper that according to the Examiner is allegedly the "sub-processes" as recited in Claim 1. Applicant submits that Ma's gateway does not disclose the "gatekeeper" as recited in Claim 1, because Ma's gateway does not dispatch received "incoming messages" as recited in Claim 1. According to Ma, the gateway receives a request from an endpoint that is trying to initiate a call. Upon receipt of the request from the endpoint, the gatekeeper performs initial call setup by sending out a setup message to the gatekeeper to try to setup the call. See column 5, line 63 to column 6, line 9 of Ma.

Furthermore, upon receipt of the setup message Ma's alleged "sub-processes" passes the setup message to LMU wherein the LMU determines which of Ma's "sub-processes," i.e. gatekeepers, will service the IP telephony call. See Figure 4, steps 404 and 406 of Ma. If LMU determines that Ma's assigned "sub-process," e. assigned gatekeeper, will service the IP telephony call, Ma's assigned "sub-process" will be

allowed to complete call setup and service the call (i.e. actually receive the incoming message). See Figure 4, step 408 and 416 of Ma. However, if LMU determines that a different servicing "sub-process," i.e. servicing gatekeeper, will service the IP telephony call, the assigned "sub-process" will send a Facility Redirect Message back to the gateway informing the gateway of the servicing "sub-process" that will handle the call. See Figure 4, step 410 and column 8, line 64 to column 9, line 2 of Ma. Upon receipt of the Facility Redirect Message, the gateway sends a Release Message to the assigned "sub-process" and the gateway sends another setup message to the servicing "sub-process" wherein the servicing "sub-process" completes call setup and services the call. See Figure 4, steps 412-416 of Ma.

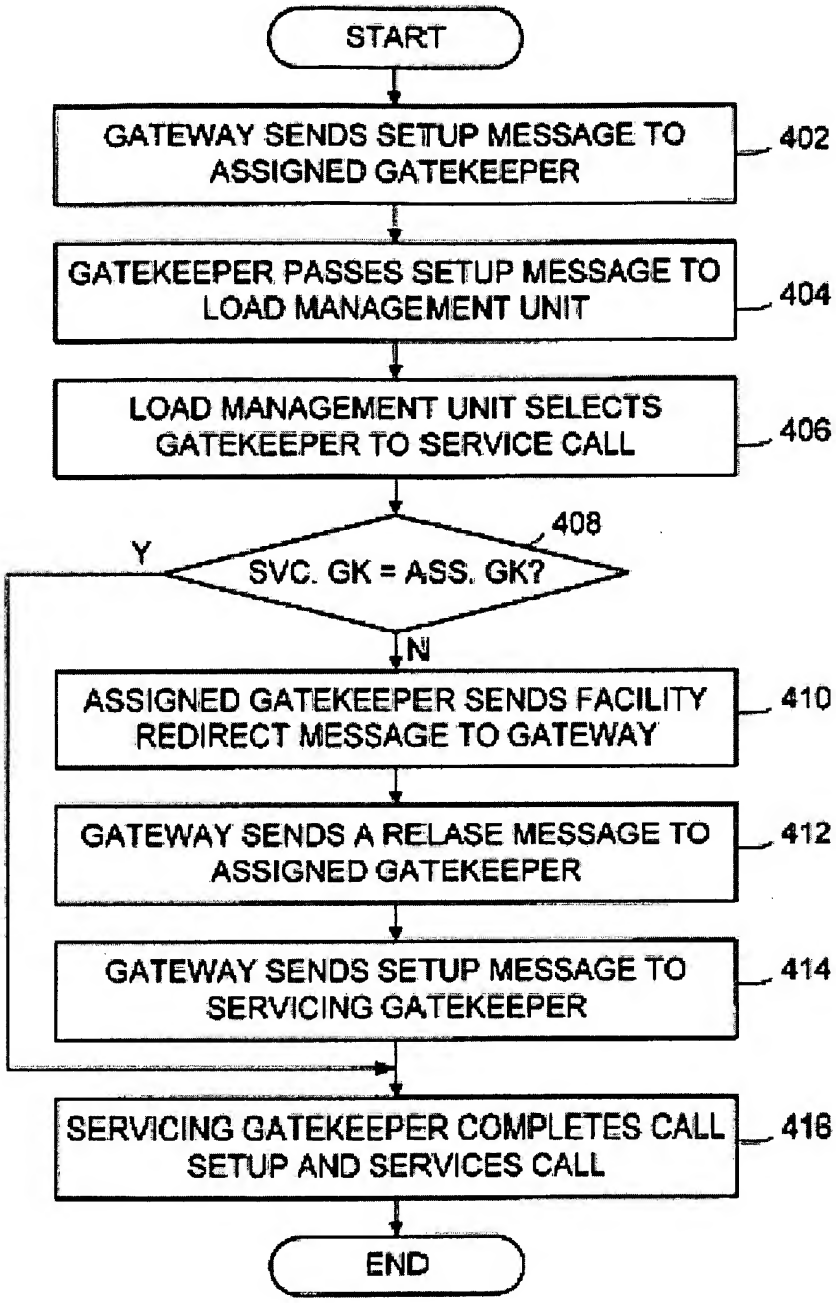


FIG. 4

In view of Ma's teachings, Applicant submits that Ma does not disclose all the features of Claim 1. Specifically, because Ma's gateway does not dispatch the request received from the endpoint to the gatekeeper, but actually generates a setup message, Ma's

gateway does not disclose the "gatekeeper" that dispatches "received messages" as recited in Claim 1. Furthermore, Ma teaches that it is Ma's alleged "sub-processes," i.e. assigned gatekeeper, that is actually receiving the incoming setup message. Therefore, how can Ma disclose "the gatekeeper receiving incoming messages" as recited in Claim 1, when it is Ma's alleged "sub-processes" that is receiving the incoming messages, not Ma's gateway or LMU? See Figure 4, step 402 and column 8, lines 46-50 of Ma.

Additionally, Ma's LMU does not disclose the "gatekeeper" as recited in Claim 1, because Ma's LMU is not capable of "dispatching received messages among the plurality of sub-processes" as recited in Claim 1. As shown above, if Ma's LMU determines that a different servicing "sub-process," i.e. servicing gatekeeper, is to handle the IP call, it is **not** the LMU that dispatching the setup message to the servicing "sub-process," it is the gateway that actually dispatches the setup message to the servicing "sub-process." See step 414 of Figure 4 below.

Furthermore, referring to the stand-alone LMU embodiment shown in Figure 3B above (and by all appearances contrary to Figure 4), Ma teaches that the LMU must be able to accept setup messages and issue Facility redirect and release completion messages as appropriate. See column 8, lines 36-40 of Ma. Appellant submits that even in this embodiment Ma does not disclose or suggest "dispatching received messages among the plurality of sub-processes" as recited in Claim 1. Clearly, Ma's LMU must be able issue Facility Redirect Message, wherein the Facility Redirect Message is directed to the gateway as discussed above. Upon receipt of the Facility Redirect Message it is the gateway that dispatches a new setup message to another gatekeeper, **not** the LMU. Because dispatching messages among different gatekeepers is done by Ma's gateway, Ma does not teach, disclose or suggest "the gatekeeper dispatching received messages among the plurality of sub-processes" as recited in Claim 1.

Appellant submits that the Examiner's interpretation of Ma is based solely upon a hindsight reconstruction of Applicant's claims as opposed to what Ma really teaches. As stated by the Federal Circuit: "[i]t is impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious. One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to depreciate the claimed invention." In re Fritch, 972 F.2d 1260. Therefore, Appellant submits that the Examiner has failed to establish a *prima facie* case of obviousness for the claims rejected under 35 U.S.C. §103(a) and Appellant respectfully requests that the rejection be withdrawn on appeal and Claim 1 be allowed.

Claims 2-10 and 16

Claims 2-10 and 16, at least based on their dependency on Claim 1, are also patentable over Ma and Brendel.

Claim 11

Appellant submits that, at least for the reasons stated above for Claim 1, Ma and Brendel do not teach, disclose or suggest "a gatekeeper for receiving incoming messages and hosting a plurality of sub-processes each able to process a series of messages, wherein the gatekeeper is adapted to dispatch the received messages onto those different sub-processes, and further wherein the gatekeeper has means for identifying whether a received message belongs to a same call as a previously received message, and, in that case, sending this received message to the sub-process that processed the previously received message" as recited in amended Claim 11. Hence, Claim 11 is patentable over Ma and Brendel and the rejection should be revered on appeal.

Claim 12

Claim 12, at least based on its dependency on Claim 11, is also patentable over Ma and Brendel.

Claim 13

Appellant submits that, at least for the reasons stated above for Claim 1, Ma and Brendel do not teach, disclose or suggest "the gatekeeper comprising means for dispatching incoming messages onto a plurality of sub-processes, the gatekeeper being able to identify whether a received message belongs to a same call as a previously received message, and, in that case, being able to send this received message to the sub-process that processed said previously received message" as recited in amended Claim 13. Hence, Claim 13 is patentable over Ma and Brendel and the rejection should be revered on appeal.

Claim 14

Claim 14, at least based on its dependency on Claim 13, is also patentable over Ma and Brendel.

Claim 15

Appellant submits that, at least for the reasons stated above for Claim 1, Ma and Brendel do not teach, disclose or suggest "the gatekeeper receiving incoming messages; the gatekeeper decoding received message only partially, the decoded part including said one or several fields which contain those data; and the gatekeeper dispatching received messages among the plurality of sub-processes, wherein the received messages that belong to the same call are dispatched to the same sub-process" as recited in amended Claim 15. Hence, Claim 15 is patentable over Ma and Brendel and the rejection should be revered on appeal.

Claim 17

Claim 17, at least based on its dependency on Claim 15, is also patentable over Ma and Brendel.

* * *

Conclusion

For the extensive reasons advanced above, Appellant respectfully contends that each claim is patentable. Therefore, reversal of all rejections and objections is courteously solicited.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 08-2025. In particular, if this Appeal Brief is not timely filed, the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136(a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 08-2025.

I hereby certify that this correspondence is being deposited with the United States Post Office with sufficient postage as first class mail in an envelope addressed to: Mail Stop Appeal Brief - Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22323-1450 on

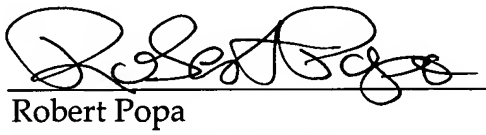
September 8, 2006
(Date of Mailing)

Aileen Shrestha
(Name of Person Mailing)


(Signature)

September 8, 2006
(Date)

Respectfully submitted,



Robert Popa
Attorney for Appellants
Reg. No. 43,010
LADAS & PARRY
5670 Wilshire Boulevard, Suite 2100
Los Angeles, California 90036
(323) 934-2300

1. A method for processing messages incoming on a gatekeeper system of an Internet Protocol network, wherein the gatekeeper system includes a gatekeeper and a plurality of sub-processes each able to process a series of such messages, the method comprising:

the gatekeeper receiving incoming messages; and

the gatekeeper dispatching received messages among the plurality of sub-processes, wherein the received messages that belong to the same call are dispatched to the same sub-process.

2. The method of claim 1, further comprising the gatekeeper identifying whether the received message has the same conference identifier as a previously received message.

3. The method of claim 1, wherein the method is executed on a H323 network.

4. The method of claim 3, wherein the received messages to be dispatched are "Registration, Admission and status" (RAS) messages.

5. The method of claim 4, further comprising identifying whether the received message is a registration or an admission message, and, if the received message is identified as a registration message, determining the sub-process to which the received message is going to be dispatched on the basis of the current load of the different sub-processes in order to balance the load of the different sub-processes.

6. The method according to claim 4, comprising identifying whether the received message is a registration or an admission message, and, if the received message is an admission message, determining whether the received message is the first admission message of a call, and, in that case, determining the sub-process to which the received message is going to be dispatched on the basis of the current load of the different sub-processes in order to balance the load of the different sub-processes.

7. The method according to claim 1, wherein the received messages to be dispatched enter the gatekeeper system in an encoded form and comprise several fields, one or several of these fields containing data which identify a call and further wherein the dispatching includes decoding the received message only partially, the decoded part including said one or several fields which contain those data.

8. The method according to claim 7, further comprising examining fields of the received message in sequence until finding said one or several fields which contain the data which identify the call.

9. The method of claim 8, further comprising reading one or several fields of the received message which indicate the type of the received message and deducing, on the basis of the type of the received message, a sequence of field types concerning the fields which are placed before said one or several fields that contain the call identifying data.

10. The method of claim 9, further comprising examining a field which indicates whether some optional fields are present or not before said one or several fields which contain the call identifying data, in order to determine whether such optional fields should be found or not when examining the fields in sequence.

11. A gatekeeper system of an Internet Protocol network, the gatekeeper system comprising a gatekeeper for receiving incoming messages and hosting a plurality of sub-processes each able to process a series of messages, wherein the gatekeeper is adapted to dispatch the received messages onto those different sub-processes, and further wherein the gatekeeper has means for identifying whether a received message belongs to a same call as a previously received message, and, in that case, sending this received message to the sub-process that processed the previously received message.

12. The gatekeeper system of claim 11, further comprising means to identify whether a received message has a same conference identifier as a previously received message, and, in that case, sending this message to the sub-process that processed the previously received message.

13. A gatekeeper in an Internet Protocol Network, the gatekeeper comprising means for dispatching incoming messages onto a plurality of sub-processes, the gatekeeper being able to identify whether a received message belongs to a same call as a previously received message, and, in that case, being able to send this received message to the sub-process that processed said previously received message.

14. The component of claim 13, including means to identify whether a received message has a same conference identifier as a previously received message and, in that case, sending this received message to the sub-process that processed said previously received message.

15. A method for processing messages incoming on a gatekeeper system of an Internet Protocol network, wherein the gatekeeper system comprises a gatekeeper and a plurality of sub-processes each able to process a series of such messages, and further wherein the messages enter the gatekeeper in an encoded form and comprise a plurality of fields, at least one of which contains data for identifying a call, the method comprising:

the gatekeeper receiving incoming messages;

the gatekeeper decoding received message only partially, the decoded part including said one or several fields which contain those data; and

the gatekeeper dispatching received messages among the plurality of sub-processes, wherein the received messages that belong to the same call are dispatched to the same sub-process.

16. A gatekeeper system operating in accordance with the method of claim 1.

17. A gatekeeper system operating in accordance with the method of claim 15.

No evidence is being submitted

No copies of decisions rendered in related proceedings are being submitted.